

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: EAST PALESTINE TRAIN DERAILMENT**

Case No. 4:23-CV-00242-BYP

JUDGE BENITA Y. PEARSON

**DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' MASTER CONSOLIDATED  
CLASS ACTION COMPLAINT UNDER FEDERAL RULE OF CIVIL PROCEDURE  
12(b)(6) AND TO STRIKE UNDER FEDERAL RULE OF CIVIL PROCEDURE 12(f)**

Under Federal Rules of Civil Procedure 12(b)(6) and 12(f), Defendants Norfolk Southern Railway Company and Norfolk Southern Corporation move to dismiss Plaintiffs' Master Consolidated Class Action Complaint (Dkt. 31) for failure to state a claim upon which relief can be granted and to strike Plaintiffs' request for punitive damages. The grounds for this Motion are set forth in the accompanying Memorandum in Support.

Dated: June 2, 2023

WILMER CUTLER PICKERING  
HALE AND DORR LLP

/s/ Alan Schoenfeld

ALAN SCHOENFELD\*  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
Tel.: (212) 230-8800  
Fax: (212) 230-8888  
alan.schoenfeld@wilmerhale.com

DAVINA PUJARI\*  
CHRIS RHEINHEIMER\*  
One Front Street, Suite 3500  
San Francisco, CA 94111  
Tel.: (628) 235-1000  
Fax: (628) 235-1011  
davina.pujari@wilmerhale.com  
chris.rheinheimer@wilmerhale.com

ALBINAS PRIZGINTAS\*  
2100 Pennsylvania Avenue NW  
Washington, DC 20036  
Tel.: (202) 663-6000  
Fax: (202) 663-6363  
albinas.prizgintas@wilmerhale.com

MICHELLE LISZT SANDALS\*  
60 State Street  
Boston, MA 02109  
Tel.: (617) 526-6000  
Fax: (617) 526-5000  
michelle.sandals@wilmerhale.com

\**Pro hac vice*

Respectfully submitted.

DICKIE, McCAMEY &  
CHILCOTE, P.C.

J. LAWSON JOHNSTON  
SCOTT D. CLEMENTS, Ohio Bar No. 0096529  
AARON PONZO\*  
PAUL ROMAN\*  
Two PPG Place, Suite 400  
Pittsburgh, PA 15222  
Tel.: (412) 281-7272  
Fax: (412) 888-811-7144  
ljohnston@dmclaw.com  
sclemenets@dmclaw.com  
aponzo@dmclaw.com  
proman@dmclaw.com

\**Pro hac vice*

*Counsel for Defendants*  
*Norfolk Southern Corporation and Norfolk Southern Railway Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 2, 2023, I caused a copy of the foregoing to be filed with the Clerk of the Court using the Court's CM/ECF electronic filing system, which will provide electronic notice to all counsel of record.

*/s/ Alan Schoenfeld*

---

ALAN SCHOENFELD